

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|-------------------------------------|---|-----------------------|
| PHOENIX PAYMENT SYSTEMS, INC. d/b/a |) | |
| ELECTRONIC PAYMENT EXCHANGE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 07-537 (***) |
| |) | |
| LEXCEL, INC. and LEXCEL SOLUTIONS, |) | |
| INC., |) | |
| |) | |
| Defendants. |) | |

STIPULATION AND PROPOSED ORDER

Pursuant to 28 U.S.C. §636(c), Federal Rule of Civil Procedure 73, and Local 73.1, plaintiff Phoenix Payment Systems, Inc. and defendants Lexcel, Inc. and Lexcel Solutions, Inc. hereby stipulate, subject to the approval of the Court, to have the Honorable Magistrate Judge Stark decide plaintiff's pending Motion to Dismiss Lexcel's Counterclaim (D.I. 12).

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*Attorneys for Defendants Lexcel, Inc.
and Lexcel Solutions, Inc.*

December 11, 2007

So Ordered this ___ day of December, 2007.

United States District Judge